



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA FIRST CLASS MAIL**

**NOV - 8 2011**

J. Ashley Cooper, Treasurer  
Lally for Congress  
2017 Boulevard Napoleon  
Louisville, KY 40205

RE: MUR 6424

Dear Mr. Cooper:

On November 10, 2010, the Federal Election Commission notified Lally for Congress ("Committee") and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On October 20, 2011, based upon the information contained in the complaint, and information provided by you, the Commission decided to dismiss the complaint and closed its file in this matter. Accordingly, the Commission closed its file in this matter on October 20, 2011.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). A copy of the dispositive General Counsel's Report is enclosed for your information.

If you have any questions, please contact Frankie D. Hampton, the paralegal assigned to this matter, at (202) 694-1650.

Sincerely,

Anthony Herman  
General Counsel

BY: Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination and  
Legal Administration

Enclosure  
General Counsel's Report

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**BEFORE THE FEDERAL ELECTION  
COMMISSION**

In the Matter of )

MUR 6424 )

LALLY FOR CONGRESS AND )

AND J. ASHLEY COOPER, )

AS TREASURER )

DISMISSAL AND

CASE CLOSURE UNDER THE

ENFORCEMENT PRIORITY SYSTEM

**CELA**

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring criteria to allocate its resources and decide which cases to pursue. These criteria include, but are not limited to, an assessment of (1) the gravity of the alleged violation, both with respect to the type of activity and the amount in violation, (2) the apparent impact the alleged violation may have had on the electoral process, (3) the legal complexity of issues raised in the case, (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended ("Act"), and (5) development of the law with respect to certain subject matters. It is the Commission's policy that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss certain cases. The Office of General Counsel has scored MUR 6424 as a low-rated matter and has also determined that it should not be referred to the Alternative Dispute Resolution Office. This Office therefore recommends that the Commission exercise its prosecutorial discretion to dismiss MUR 6424.

In this matter, complainant Maxwell Morley alleges that Lally for Congress and J. Ashley Cooper, in his official capacity as treasurer ("the Committee"), violated the Act and Commission regulations by failing "to properly designate contributions received" from federally-registered political action committees ("PACs"). Specifically, according to the complainant, the Committee's 2010 October Quarterly Report improperly disclosed that \$20,500 in contributions

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1 were made by "organizations."<sup>1</sup> Similarly, the complainant asserts that on its 2010 Pre-General  
2 Report, the Committee improperly disclosed that \$8,000 in contributions were made by  
3 "organizations."<sup>2</sup>

4 In response, the Committee acknowledges that several PAC contributions had  
5 been designated improperly in its reports. The Committee explains that the errors  
6 occurred where its "accounting staff did not receive their FEC information that is  
7 required by [the Committee's] accounting software" . . . which "caused the PAC  
8 contributions to be designated improperly in the reports." According to the Committee,  
9 once the errors were brought to its accountant's attention, he corrected them and amended  
10 the reports.

11 A review of the Committee's 2010 October Quarterly and Pre-General Reports discloses  
12 \$20,500 and \$8,000 in PAC contributions, described above, as itemized receipts on the Reports'  
13 respective Schedule As, *see* 11 C.F.R. § 104.3(a)(4). However, on the Detailed Summary Pages  
14 at the beginning of the Reports, the Committee's PAC contribution are lumped in with itemized  
15 contributions from individuals and others, rather than being reported on separate lines. In  
16 response to three reporting anomalies, on November 24, 2010, the Committee took complete  
17 remedial action by filing amended 2010 October Quarterly and Pre-General Reports, which  
18 properly disclosed the \$28,500 in PAC contributions at issue on line 11(c) of the Reports'  
19 respective Detailed Summary Pages.

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<sup>1</sup> These contributions are as follows: \$1,000 from Iraq Veterans for Congress PAC on September 30, 2010; \$2,500 from Pharmacia PAC on September 30, 2010; \$5,000 from Kentucky Bankers PAC on September 28, 2010; \$5,000 from American Society of Interventional Pain Physicians PAC on September 28, 2010; \$2,000 from National Stone, Sand & Gravel Association ("Rock PAC") on September 30, 2010; and \$5,000 from Association of Builders and Contractors PAC on September 30, 2010.

<sup>2</sup> These contributions are \$3,000 from Automotive Free International Trade PAC on October 4, 2010 and \$5,000 from BuildPAC on October 7, 2010.

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In light of the technical nature of the alleged violations and the fact that complete corrective action has already been taken by the Committee, further Enforcement action is not warranted. Accordingly, under EPS, the Office of General Counsel has scored MUR 6424 as a low-rated matter and therefore, in furtherance of the Commission's priorities, as discussed above, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

**RECOMMENDATIONS**

The Office of General Counsel recommends that the Commission dismiss MUR 6424, close the file, and approve the appropriate letters.

Anthony Herman  
General Counsel

Date

9/24/11

BY:

Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

Ruth Heilizer  
Attorney